

NEBRASKA AGRICULTURAL MACHINERY AND EQUIPMENT SALES TAX EXEMPTION

OVERVIEW

Farmers and ranchers are **NOT** exempt from sales or use tax on equipment, supplies, and services they use in the course of doing business. However, there is a tax exemption for **certain** agricultural machinery and equipment when used directly in commercial agriculture.

Purchases and leases of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use tax when purchased or leased for direct use in commercial agriculture.

Personal property tax is due on depreciable agricultural machinery and equipment regardless of whether or not sales or use tax was paid on the machinery or equipment.

This information guide is intended to provide an overview. Nothing in this guide supersedes, alters, or otherwise changes any provisions of the Nebraska tax code, regulations, Nebraska Department of Revenue (Department) rulings, or court decisions.



This information guide may change with updated information or added examples. The Department recommends you do not print this guide. Instead, sign up for the subscription service at www.revenue.ne.gov to get updates on your topics of interest.

TERMS

Agricultural Machinery and Equipment. Agricultural machinery and equipment is tangible personal property that is used **directly** in cultivating or harvesting a crop, raising or caring for animal life, or collecting or processing an agricultural product on the farm or ranch.

Commercial Agriculture. Commercial agriculture is the business of producing food products or other useful and valuable crops, or raising animal life. The crops or animal life may either be sold or used by the producer or grower to produce other products for sale.

- ❖ Commercial agriculture includes commercial production in greenhouses, nurseries, tree farms, sod farms, and feedlots.
- ❖ Commercial agriculture does not include storing products off the farm or in commercial elevators, or holding animal life in stockyards or sale barns.

Contractor. A contractor is any person who repairs property annexed to real estate, who annexes building materials and fixtures to real estate, or who arranges for the annexation.

Depreciable Agricultural Machinery and Equipment. Depreciable agricultural machinery and equipment means agricultural machinery and equipment which has a determinable life of longer than one year.

SALES OF AGRICULTURAL MACHINERY AND EQUIPMENT

Sales of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use tax when purchased for direct use in commercial agriculture.

- ❖ **Example of direct use:** Equipment used to mow hay that the producer will feed to livestock or sell. (Sale of equipment is tax exempt.)
- ❖ **Example of indirect use:** Equipment used to mow under fence lines. (Sale of equipment is taxable.)

ALL exempt sales of agricultural machinery and equipment **MUST** be supported by a [Nebraska Resale and Exempt Sale Certificate, Form 13](#).

The seller must keep the Form 13 with its books and records. The requirement of a Form 13 applies even for purchases of new or used agricultural machinery and equipment by out-of-state customers who are in commercial agriculture. For examples of property that may qualify for this exemption, see the Items that Qualify as Agricultural Machinery and Equipment section below.

NOTE: Many types of machinery and equipment used in farming and ranching operations do not qualify for this exemption. For examples of property that does not qualify for this exemption, see the Items That Do Not Qualify as Agricultural Machinery or Equipment section below.

AUCTION SALES


When an auctioneer makes a sale of depreciable agricultural machinery or equipment, the auctioneer must charge sales tax unless the buyer gives the auctioneer a completed Form 13. For more information on sales made by auctioneers, please review the [Nebraska Sales and Use Tax for Auction Sales Information Guide](#).

LEASES OF AGRICULTURAL MACHINERY AND EQUIPMENT

Leases of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use tax when leased for direct use in commercial agriculture.

- ❖ Capitalized leases of qualified machinery and equipment for periods of **more than one year** must be supported by a [Form 13](#), Section B. The capitalized lease allows the lessee to depreciate the machinery or equipment for federal income tax purposes. In most cases the lessee is responsible for personal property tax on the net book value of the property.
- ❖ Operating leases of qualified machinery and equipment for periods of **one year or less** must be supported by Form 13, Section B. In most cases the lessor is responsible for reporting the net book value for personal property tax purposes.

Lessors must keep the completed Form 13 with their books and records.

 REVENUE	Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption	FORM 13
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:		
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A.) <input checked="" type="checkbox"/> Exempt Purchase (Complete Section B.) <input type="checkbox"/> Contractor (Complete Section C.)		
SECTION B—Nebraska Exempt Sale Certificate		
The basis for this exemption is exemption category <u>02</u> (Insert appropriate category as described on reverse of this form.)		
If exemption category 2 or 5 is claimed, enter the following information:		
Description of Item(s) Purchased	Intended Use of Item(s) Purchased	
Farm machinery	Commercial Agricultural	
sign here <u>Andy Somebody</u> Authorized Signature	<u>Owner</u> Title	<u>2/7/2012</u> Date

REPAIR AND REPLACEMENT PARTS FOR AGRICULTURAL MACHINERY AND EQUIPMENT

The sale of repair and replacement parts for agricultural machinery and equipment used directly in commercial agriculture is not exempt from sales and use tax. The seller is required to collect and remit the tax on sales of repair and replacement parts. Repair and replacement parts include items which would be found on a parts list for a given piece of machinery or equipment, or the generic equivalent of a listed part. Examples of repair parts include: antifreeze, batteries, spark plugs, and tires.

The purchaser may not use a [Form 13](#) to make a tax exempt purchase of repair or replacement parts. For additional information, see the Improper Issuance of Form 13 section below.

The purchaser may apply for a refund of the sales tax paid on depreciable repair and replacement parts for agricultural machinery and equipment that is directly used in commercial agriculture. The claim for refund, [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#), must be filed within three years after the date of purchase.

As a general rule, repair and replacement parts are depreciable if they will appreciably prolong the life of the property, arrest its deterioration, or increase its value or usefulness, and are ordinarily capital expenditures for which a deduction is allowed only through the depreciation/cost recovery allowance. However, incidental repairs that merely keep the property in an ordinary operating or usable condition are deductible as current expenses, and the sales tax paid for these parts is not refundable.

REPAIR LABOR ON AGRICULTURAL MACHINERY AND EQUIPMENT

Repair labor on depreciable agricultural machinery and equipment is sales tax exempt as long as it is separately stated from the repair and replacement parts on the billing or invoice.

Example 1: A farmer hires a local farmer’s cooperative to replace a tractor tire in the field.

Taxability of transaction	
Tractor tire	Taxable
Labor	Tax Exempt
Shop supplies	Tax Exempt
Mileage	Tax Exempt

If a single amount is billed for both repair labor and repair parts, the entire amount charged is subject to sales tax.

Example 2: A farmer hires a local farmer’s cooperative to replace a tractor tire in the field.

Invoice from cooperative	
Tractor tire and service	Taxable

PURCHASES BY FARMER’S COOPERATIVES

A farmer’s cooperative may purchase or lease depreciable agricultural machinery and equipment sales tax exempt when the agricultural machinery and equipment will be used by the cooperative directly in commercial agriculture. For example: a rogator used by the cooperative to apply fertilizer on a farmer’s crops, and a combine operated by the cooperative in harvesting a farmer’s grain.

Other machinery and equipment purchased by a farmer’s cooperative are taxable. For example: grain augers that move grain at the co-op, all motor vehicles, and any trailer or semitrailer used to transport seed or chemicals to a farmer’s property.

PURCHASES BY AGRICULTURAL SERVICE PROVIDERS

A custom harvester, custom applicator, or crop duster may purchase or lease depreciable agricultural machinery and equipment tax exempt when the machinery or equipment will be used directly in commercial agriculture. For example: crop dusting airplanes, combines, and fertilizer application equipment.

IMPROVEMENTS TO REAL ESTATE AND ANNEXED EQUIPMENT

An improvement to real estate is considered real property and does not qualify for the agricultural machinery and equipment exemption.

Improvements to real estate include, but are not limited to:

- ❖ Buildings, including grain bins;
- ❖ Property attached to a building that supports, enhances, or adds to the use of the building (central air conditioning, heating system, common lighting, and plumbing);
- ❖ Wells; and
- ❖ Well casings.

Equipment Annexed to an Improvement to Real Estate That Does Not Become Real Property

Equipment annexed to an improvement to real estate for the **sole purpose** of carrying on a trade or business is not considered an improvement to real estate. This type of equipment may qualify for the agricultural machinery and equipment exemption. Examples include grain drying equipment attached to a grain bin, and automatic feeding systems for animal life.

Repair or replacement parts for this equipment are taxable. For additional information, see the Repair and Replacement Parts for Agricultural Machinery and Equipment, and the Repair Labor on Agricultural Machinery and Equipment sections above.

CONTRACTORS

The taxation of materials and equipment annexed to real estate by a contractor is determined by the contractor option elected by the contractor. Only contractors operating under Option 1 may take a [Form 13](#) from their customers to exempt sales of agricultural machinery and equipment that qualifies for the sales tax exemption.

Contractors operating under Option 2 or Option 3 are the consumers of all materials, including the agricultural machinery and equipment they annex. They cannot accept a Form 13 for equipment they annex.

Additional information relating to the various contractor options is available in the [Nebraska Taxation of Contractors General Information Guide](#).

Example 3: A farmer purchases grain storage bins with conditioning and grain-handling equipment from an Option 1 contractor. Some of the grain-handling equipment qualifies for the agricultural machinery and equipment exemption.

Taxable	Tax Exempt
Electrical control boxes	Auger systems
Grain bins	Bin sweeps
Ladders and catwalks	Contractor labor
Roof ventilation systems	Fans and heaters
	Slotted floors
	Stirrator

Maintenance agreements covering agricultural machinery and equipment used directly in commercial agriculture are not subject to sales tax. However, any repair or replacement parts furnished under the terms of the agreement are taxable to the repairperson. Separately stated charges for repair labor on agricultural machinery and equipment are not taxable.

PERSONS NOT ENGAGED IN COMMERCIAL AGRICULTURE

Sales of machinery and equipment to persons not engaged in the business of commercial agriculture are taxable. Persons not “engaged in commercial agriculture” include, but are not limited to:

- ❖ Home gardeners who do not sell their produce for profit;
- ❖ Lessors whose land is only used for pleasure, hunting or fishing;
- ❖ Participants in governmental programs that prohibit land from being used in commercial production when all the participant’s land is enrolled in the program; and
- ❖ Veterinarians.

IMPROPER ISSUANCE OF FORM 13

Any purchaser who gives a [Form 13](#) to a retailer for any purchase that is not exempt from sales and use tax may be assessed a penalty of \$100 or ten times the tax, whichever is greater. If a Form 13 was improperly issued or used by a purchaser, the purchaser must remit Nebraska and applicable local use tax directly to the Department by filing a [Nebraska and Local Business Use Tax Return, Form 2](#), or a [Nebraska and Local Individual Use Tax Return, Form 3](#).

The Department is committed to the fair administration of the tax laws of Nebraska. If someone is fraudulently using the Form 13, it is illegal, and we need you to help us find and stop this activity. You can [report tax fraud](#) by sending us an email, calling, or mailing the Department.

PERSONAL PROPERTY TAX

Personal property tax returns must be filed with the county assessor on depreciable agricultural machinery and equipment even if sales tax was paid on the item to the retailer. For additional information on personal property tax, see [Property Assessment’s website](#). All depreciable agricultural machinery and equipment must be reported for personal property tax purposes. If sales tax was paid on property qualifying for the sales tax exemption, the purchaser may apply for a refund by filing a [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#).

EQUIPMENT OR SUPPLY ITEMS PURCHASED OUTSIDE NEBRASKA

Equipment and supply items purchased outside Nebraska are subject to Nebraska use tax when brought into the state.

Use tax must be paid only if the state and/or local sales tax was not paid at the time of purchase. In Nebraska, it is imposed at the same rate and on the same transactions as the sales tax. In addition, if the local sales tax is not properly paid on the original purchase, the local use tax is owed.

For more information on use tax, please see the [Nebraska Consumer’s Use Tax Information Guide](#).

ITEMS THAT QUALIFY AS AGRICULTURAL MACHINERY AND EQUIPMENT

The following property is exempt from tax if it is depreciable agricultural machinery and equipment used directly in commercial agriculture. The following list includes examples of typical qualifying agricultural machinery or equipment.

Machinery and Equipment Used in Cultivating or Harvesting Crops or Other Agricultural Products on the Farm or Ranch

Accessories attached to farm tractor	Hay mowers
ATV (used to fertilize crops, apply weed control on crops, and haul harvested crops)	Hay rakes
Bale movers	Hilliers
Combines	Irrigation bridges
Corn heads or other crop head equipment	Planters
Cultivators	Plows
Discs	Portable grain augers
Fertilizer spreaders, caddies, and applicators	Portable grain dryers
Frost protection fans	Rotary cutters/shredders
Grain-drying equipment – moves or dries the grain (limited to heaters, fan assemblies, augers, perforated floors, and stirrators)	Tractor tool bars
Grain spreaders	Tractors – and accessories - excluding any current tractor model defined in § 2-2701.01 not permitted for sale in Nebraska under §§ 2-2701 to 2-2711
Harrows	Tractor duals – not including tires
Hay balers	Tractor weights
Hay loaders	Trailers – only if not licensable

Machinery and Equipment Used to Raise or Care for Animal Life or Livestock

Aquaculture equipment for raising fish	Gestation crates
ATV (used to herd or feed livestock)	Hog equipment used for gestation barn
Automatic feeders	Hog slats or gang slats (concrete), wing dividers, and hog building equipment
Bee boxes	Loaders
Earth-moving equipment used to clean feedlots	Loading chutes
Fans, heaters, and shutters (portable, for hog confinement)	Manure-handling equipment
Farrowing crates, pens, and stations	Milking equipment and separators
Feed boxes	Milk storage equipment
Feed wagons	Portable sweep pens
Fish production equipment, including feeding and seining equipment	Stock water tanks/troughs
	Working horses

Irrigation Equipment

Center pivots	Power units – motors
Gear heads	Track fillers – track closers to fill ruts created by center pivot system
Irrigation well equipment, including power units, pumps, motors, center pivots, pipe – does not include casing and concrete pads	

Vehicles

Crop-dusting airplanes	Rogators
Floaters	Terragators

Miscellaneous

Global Positioning Systems (GPS) – only the portion that attaches to agricultural machinery and equipment	Tree spades
Scales (used on the farm for a feed grinder, used to weigh livestock, or attached to a feed wagon to weigh feed which is distributed for livestock)	Windmills

ITEMS THAT DO NOT QUALIFY AS AGRICULTURAL MACHINERY OR EQUIPMENT

The following list contains examples of items that do not qualify as agricultural machinery or equipment.

Acetylene torches	Motor vehicles
Air compressors	Nurse tanks (used to fill tanks that spray the fields)
Antique farm equipment	Office equipment, including computers
ATV (used for entertainment or transportation, to check on livestock, crops, irrigation systems, or fencing, or to take soil samples)	Power or pressure washers
Baseline GPS (receivers on tractors sold as one unit, individual items not priced)	Rebar (used in concrete to make banks, etc.)
Chains of any kind	Repair, replacement, or maintenance parts
Crawlers (used to clean out waterways and plumb bushes)	Rentals of equipment, like a Ditchwitch
Earth-moving equipment	Scales, including scales to weigh trucks
Equipment used to dehydrate and pelletize alfalfa	Seed tenders
Equipment used to install fencing or clear a field	Semen laboratory equipment
Excavators	Snowblowers
Finishing mowers	Solar panels for irrigation
Fork lifts	Structures, including those used for storage
Fuel tanks of any kind	Tagging guns and branding irons
Header trailers	Tanks (storage or transfer)
Hoists	Tanks (used to store oxygen or acetylene)
Hose reel assemblies	Tarps
Iron (used in construction of gestation stalls for hog equipment)	Tires of any kind
Lawn mowers and lawn tractors	Tools, including chain saws, post hole diggers, welders, and generators
Mobile telephones	Trailers (licensable)
	Two-way radios (GR 300 Repeaters)
	Weigh wagons (used to weigh one acre of grain to determine the total amount for the entire acreage)
	Well-drilling equipment

IMPROVEMENTS TO REAL ESTATE DO NOT QUALIFY AS AGRICULTURAL MACHINERY AND EQUIPMENT

The following list includes examples of improvements to real estate that do not qualify as agricultural machinery and equipment.

Bridges (other than irrigation)	Grain bin components, including catwalks, concrete, ladders, and vents
Buildings	Fences, including fencing materials used to build fences, gates, or panels
Building components, including air inlets, curtains for hog confinement, electrical equipment, electrical wire, fans, and shutters	Portable sheds and huts for calves, hay, and hogs
Culverts	Water well components, including casing, concrete, and gravel
Grain bins	

RESOURCE LIST

Forms

- ❖ [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#)
- ❖ [Nebraska Resale or Exempt Sale Certificate, Form 13](#)

Information Guides

- ❖ [Governmental Entities](#)
- ❖ [Nonprofit Organizations](#)
- ❖ [Well Drillers](#)

Nebraska Sales and Use Tax Regulations

- ❖ [Reg-1-012, Exemptions](#)
- ❖ [Reg-1-017, Contractors](#)
- ❖ [Reg-1-094, Agricultural Machinery and Equipment Refund](#)

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